

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD NOVEMBER 3, 2009, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Vice Mayor Pfeifer called the regular meeting to order at 6:00 p.m. and informed the Council and public that Mayor Joens was not present this evening due to her attendance at the 2009 Arizona Town Hall.

Roll call was then taken as follows:

COUNCIL MEMBERS PRESENT

Karen Pfeifer, Vice Mayor
Tim Elinski, Council Member
Duane Kirby, Council Member
Linda Norman, Council Member
Terence Pratt, Council Member
Darold Smith, Council Member

COUNCIL MEMBER ABSENT

Diane Joens, Mayor

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Gary Eisenga, Police Commander
Dan Lueder, Utilities Director
George Gehlert, Community Development Director
Mike Casson, Fire Chief

Marianne Jiménez, City Clerk
Tim Costello, City Engineer
Jody Fanning, Police Chief
Charlie Scully, Planner

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was led by Pete Minter. Vice Mayor Pfeifer presented Mr. Minter with a certificate of appreciation.

BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER--
THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON
ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS
PROPERLY NOTICED FOR LEGAL ACTION

Mr. Bartosh stated Civilians on Patrol personnel opened the Old Town police substation and handed out candy on Halloween night to about 600 children. November 14 was the date for the second annual Walkin' on Main event.

Mr. Lueder stated tomorrow the City, in conjunction with EZ Water, would conduct a training class in the Public Safety Building conference room. Various engineers from around the county would be attending, and it was being provided free of charge.

Council Member Pratt stated he attended the Old Town Halloween night celebration. Yesterday he attended the meeting of the Verde River Basin Partnership in place of Mayor Joens. The meeting focused on obtaining funding for scientific studies of pumping in Chino to help preserve the Verde River basin.

Council Member Kirby stated on October 22, he attended the regional council meeting of NACOG in Flagstaff where he obtained information regarding grant monies available at the present time. That same day he attended the Head Start meeting in Flagstaff.

Council Member Norman stated she had been in Sedona that morning to meet with Jeff Meilbeck of NAIPTA and Sedona Mayor Rob Adams and did a broadcast about Verde Lynx which starts operations November 9. On that date, from 2-3 p.m. at Happy Jack Road, there would be a grand opening ceremony of the new transportation facility.

Council Member Smith stated he had attended the Council retreat and the joint meeting with the Planning & Zoning Commission.

CALL TO THE PUBLIC

There were no comments from the public.

APPROVAL OF MINUTES—Special Joint Work Session of 10/22/09

Council Member Elinski moved to approve the minutes. Council Member Smith seconded the motion, which carried unanimously.

OLD BUSINESS

ORDINANCE NUMBER 551--AMENDING THE CITY OF COTTONWOOD EMPLOYEE MANUAL 2007 EDITION, REVISION NUMBER 1., BY DELETING SECTION 33., CHARITIES, DONATIONS, SOLICITATION, & ADVERTISING, IN ITS ENTIRETY; AND ADDING A NEW SECTION 33., CHARITIES, DONATIONS, SOLICITATIONS, & ADVERTISING; SECOND AND FINAL READING

Mr. Bartosh stated this would be the second reading of this ordinance change. These changes better clarified when employees could get involved in soliciting or providing time to non-profits. It was a minimal allowance of time, but did allow recognition of charities that were good for the community.

Council Member Smith stated it was a very good idea.

Council Member Pratt moved to approve Ordinance Number 551, replacing Section 33. Charities, Donations, Solicitations, & Advertising of the Cottonwood Employee Manual 2007 Edition, Revision Number 1, with a new Section 33 Charities, Donations, Solicitations, & Advertising. Council Member Norman seconded the motion, which carried unanimously.

Vice Mayor Pfeifer asked the City Clerk to read the second reading of Ordinance Number 551 by title only.

ORDINANCE NUMBER 551

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE CITY OF COTTONWOOD EMPLOYEE MANUAL 2007 EDITION, REVISION NUMBER I., BY DELETING SECTION 33., CHARITIES, DONATIONS, SOLICITATION, & ADVERTISING, IN ITS ENTIRETY; AND ADDING A NEW SECTION 33., CHARITIES, DONATIONS, SOLICITATIONS, & ADVERTISING.

ORDINANCE NUMBER 552--AMENDING TITLE 8, HEALTH AND SAFETY, CHAPTER 8.32 ALARM SYSTEMS; OF THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD, BY DELETING CHAPTER 8.32 ALARM SYSTEMS, IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 8.32 ALARM SYSTEMS; SECOND AND FINAL READING

Chief Fanning stated this was the second reading of Ordinance Number 552 regarding false alarms. They were trying to eliminate, or at least reduce, the number of false alarms the police and fire departments currently responded to, and the hours they spent on false alarms throughout the year. It increased sanctions against business owners who refused to comply with it.

Council Member Pratt stated earlier discussions had brought out the number of man-hours wasted on false alarms. These alarm calls increased the risk of accidents and raised the stress levels of responders. It was a good ordinance.

Council Member Smith stated his support and noted cities such as Phoenix were passing similar ordinances.

Vice Mayor Pfeifer asked if anyone from the public wished to speak. There were no comments from the public.

Council Member Smith moved to approve Ordinance Number 552, revising Chapter 8.32 Alarm System of the Municipal Code. Council Member Kirby seconded the motion, which carried unanimously.

Vice Mayor Pfeifer asked the City Clerk to read the second reading Ordinance Number 552 by title only.

ORDINANCE NUMBER 552

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING TITLE 8, HEALTH AND SAFETY, CHAPTER 8.32 ALARM SYSTEMS; OF THE MUNICIPAL CODE OF THE

CITY OF COTTONWOOD; BY DELETING CHAPTER 8.32 ALARM SYSTEMS, IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 8.32 ALARM SYSTEMS.

ORDINANCE NUMBER 553--AMENDING THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD, ARIZONA, BY ADDING A NEW CHAPTER 9.24 UNRULY GATHERINGS, TO TITLE 9, PUBLIC PEACE, MORALS, AND WELFARE; SECOND AND FINAL READING

Commander Eisenga stated this item had been discussed at work sessions and at the previous meeting. The police department was often called to the same location on numerous occasions where there was violence or members of the public were disturbing the peace and quiet in neighborhoods. This ordinance was intended to suppress some of the unruly gatherings and violence in our community. It held the violator accountable for their actions of disturbing the peace in their neighborhood. What occurred a lot of times with these parties were kidnappings, assaults, fighting, disturbing the peace, and littering. This would help the police department crank down on things of this nature. It was extremely difficult for the neighbors when there were constantly calling to say they had another party with more loud noise.

Council Member Kirby stated he had received more comments from the public than anything else in the two and a half years he had been on the Council. It had had a lot of positive response and everyone was hopeful it would do what everybody wanted it to do, which was to bring peace and harmony to our neighborhoods.

Commander Eisenga stated if the owner was working to remove the tenants, then the owner was not going to be held responsible. If they were working to ensure the unruly gatherings did not occur, and that unruly gatherings did not happen again, then they would not be responsible. In some cases, the owner took no responsibility for their tenants and the tenants continued to disturb the peace and quiet of the neighborhood.

Council Member Elinski asked what Commander Eisenga would do in the case of where there was a sort of revolving door of clientele and the owner may boot out a problem tenant but the next month another problem tenant moved back in.

Commander Eisenga stated they would still be tagging the place and asking the manager to be a little bit more concerned about who they were renting to. If the landlord or owner was working with the police department to try and stop these problems, then they would work with them. But if they were going to continuously rent to people that were going to cause loud parties and fights, they would not have any choice but to tag the place and work in that direction.

Ms. Tammy Matur, a Cottonwood resident, stated she was really concerned about all of this and it sounded very discriminatory. The fact that the police department was bringing it to the Council in the first place was concerning to her. It only allowed them more power to harass people, which she felt they did. She was concerned about people who had sporting events, barbecues, Fourth of July events, Halloween parties, kids' birthday parties, or

whatever where people drank. She questioned why a homeowner or a business owner should be responsible for somebody else's behavior. There were already laws in effect to help the police. She didn't think it right to have the police department come and ask the City Council to pass some law to make their job easier.

Chief Fanning stated the idea behind this was it allowed discretion on the part of the police officers as they did in many things. If there was a party where a person got out of control and if the homeowner was trying to work with the police to stop this, then the house would not be tagged. But, if the homeowner was insistent on allowing this type of activity that was where this law would come into place. It was not to target the homeowner who had a birthday party where Uncle Joe got intoxicated and got out in the front yard and started yelling. It was designed for the continual homeowner or renter who flaunted the law.

Council Member Kirby moved to approve Ordinance Number 553, which added Chapter 9.24 Unruly Gatherings to the Municipal Code. The motion was seconded by Council Member Pratt and carried unanimously.

Vice Mayor Pfeifer asked the City Clerk to read the second reading of Ordinance Number 553 by title only.

ORDINANCE NUMBER 553

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE MUNICIPAL CODE OF THE CITY OF COTTONWOOD, ARIZONA, BY ADDING A NEW CHAPTER 9.24 UNRULY GATHERINGS; TO TITLE 9, PUBLIC PEACE, MORALS, AND WELFARE.

CONSENT AGENDA

APPROVAL OF AMENDMENT NUMBER 1 TO THE ARIZONA DEPARTMENT OF TRANSPORTATION AERONAUTICS GRANT FOR THE PERIMETER ROAD AT THE COTTONWOOD AIRPORT

Council Member Pratt moved to approve the consent agenda. Council Member Elinski seconded the motion, which carried unanimously.

NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action

DETERMINATION OF CHOOSING A WATER SOURCE FOR THE UTILITY DEPARTMENT TO SERVICE VERDE VILLAGE UNITS 6 & 7

Mr. Lueder displayed a PowerPoint presentation and stated there were two options being presented tonight for something that was desperately needed. On display was a scaled representation of Well 6-2. In September 2008 there was a catastrophic failure of this well.

The well screen and pump were plugged with debris and a new pump was put in. It was verified that the lower portion of the borehole had collapsed. Sections of pipe were removed and the pump was positioned above the point of collapse. Hydro-geologists were consulted because once one collapse occurred, chances are others would follow. The pump could not be pulled inside the casing, and one thought was to case the bottom part of the well. Because of the small casing size and the low production level of this well, the consultants and staff agreed it was not worth putting more money into it, and investigations began for potential new well sites.

The City Manager was approached at this time by the owner of the Quail Canyon Water System to determine if the City had an interest purchasing that system. Well 6-1 was small and produced only 66 gallons per minute. Upgrading this site would cost about \$300,000 for arsenic treatment and it was scheduled to be abandoned when the entire system was in compliance with arsenic standards. The matter was brought before the Council in June and staff was given a price range for negotiation of the purchase. They had reached an agreement for a purchase of \$850,000, which included two wells with a combined production of about 900 gallons per minute. At build-out of the 63 lot subdivision, there would be a reimbursement of \$210,366 in water impact fees which would offset the purchase price.

The other option available was to drill another production well. There were various sites to choose from. The two major concerns were to obtain production volume and low levels of arsenic. The Quail Canyon wells were at 6.4 ppm, which was under the new standard. Along with it came an easement. If the Council decided to purchase this well, plans were for a vertical drive well tunnel to be put on the Quail Canyon well. A pipeline of about 2,800 feet would tie it to our existing Unit 7 system at a cost of approximately \$168,000. We would have a large production well which could pump directly into the system and with a variable drive pump, only pump what was needed for Units 6 and 7. It could shut down when well 7-2 was able to keep up with demand. The capacity of the well was such we would not need a large reservoir. An easement had been secured to be able to connect the well to our system.

An appraisal to replace the system showed a cost of about \$627,000. The easement property was worth about another \$111,000 - \$150,000. The well had been step tested and staff was confident it would be a good addition to our system, and solve one of our water supply problems. It was tested to be sure that as well pumping increased, the arsenic did not increase. The maximum level recorded was 7.4 ppm, still below the minimum 10 ppm standard we were required to meet. Staff's main concern now was that we have an additional supply of water by the time peak demands came next summer.

The Council had two options before it. Quail Canyon well had a known quantity on its production. Despite studies and tests, there was no guarantee of success when drilling a new well. We needed another supply for Units 6 and 7 for next year.

Council Member Pratt asked if this was an either/or situation because we needed a well,

and Mr. Lueder replied, yes.

Council Member Pratt stated we already had \$500,000 in funds from the Central Arizona Project which could only be spent on the acquisition of new supplies of water. Plus we would get back \$210,366 in impact fees, for a total of about \$710,336. We were really talking about \$140,000 out of the City coffers in the end. A new well would cost \$550,000 which was \$300,000 less, and we are not sure if we could get a good source of water or a producing well, or water below 10 ppm in arsenic.

Mr. Lueder stated negotiations had started at \$1.25 million which represented the owner's investment in the system. The agreement was for a substantially lower amount.

Council Member Smith questioned how we came to an \$850,000 appraisal on this and if someone else appraised it for what it was actually worth.

Mr. Lueder stated what was done was called the replacement cost new list appreciation appraisal method on it. This showed the cost of existing equipment and facilities was \$627,000. It did not take into account whether the wells produced 200 gallons per minute (gpm) or 900 gpm, which they did. The basis the City had used in the past was for just what the fixtures on the ground cost.

Council Member Smith asked how big the reservoir system was for this one.

Mr. Lueder stated it had a reservoir system of 20,000 gallons. With a variable drive pump it would have the capacity. There were two ways water systems worked. You either had high capacity wells and smaller reservoirs or low capacity wells and large reservoirs. Because of the demand here, the 20,000 gallons in storage was adequate to serve the Quail Canyon subdivision. The excess capacity would be what we took and used in Units 6 and 7.

Council Member Smith asked what would happen if we start using this well and we developed arsenic issues with it.

Mr. Lueder stated historically this section of the aquifer did not have arsenic problems. We had our hydrologists take a series of tests and tried to increase arsenic levels. We varied the rate and it did not change the levels. Historically, as you moved into this area, wells were lower in arsenic because they pulled water from a different geological formation.

Council Member Smith stated the other thing mentioned was for us to drill a new well which would cost \$500,000, and asked what it would cost if we were to drill a well over by 6 down 600 to 800 feet.

Mr. Lueder stated we were not going to drill 600 or 800 feet. We were going to go to a minimum of 1,000 feet. It was not until we found a good source of water and ran the casing and the screen that we got into development. Development was normally what determined whether or not there was arsenic. We were looking at about \$350,000 - \$400,000 to drill,

case, test pump, and determine if a well was viable. Residential wells used a four inch bore hole, uncased, did not have to follow the regulations we did, and put out an average of 15-18 gpm. By their very nature, they were a lot cheaper. We had ADWR regulations, SRP looking over our shoulder, and ADEQ regulations we had to meet. You could drill a well cheaper, but you would end up with another 6-1.

Council Member Kirby stated Mr. Lueder had made it quite clear that by purchasing this well and extending that line along the provided easement you could improve the water supply to Verde Village Units 6 and 7 year round with no problem whatsoever. In order to do that otherwise would cost us at least two wells at \$500,000 a piece. We were on the right track here.

Council Member Elinski stated he thought our money was better spent buying something that was known and we should not gamble with spending money elsewhere.

Vice Mayor Pfeifer stated having another straw in the ground into the aquifer wasn't the answer.

Council Member Smith stated if we were going to annex this property the well should be ours and he didn't believe we should have to pay for it.

Council Member Kirby stated there was a big difference between annexation and ownership. When you annexed you did not own the property. You simply put it inside the city limits.

Mr. Bob Oliphant, of Cottonwood, stated the city was once again incurring hundreds of thousands of dollars in loss because it was closing down two wells that it paid several hundred thousand of dollars for, if not possibly, \$1 million apiece. He questioned where the consultants were who advised the city that those two wells were in this type of condition and where the report was showing that the arsenic level in well 6-2 was so high. There was a \$1 million loss on the Recreation Center because we had improper consultant figures. Tonight the Council was looking at going forward with another million dollar purchase and did not have a comprehensive, in-depth financial plan to do so. It seemed to him the question of the water tank should be carefully examined and they should have two, possibly three, independent, written analyses regarding the type of reservoirs not only needed today but 15 or 20 years from now. It was a sad night for this city to see these wells which we paid hundreds of thousands of dollars for, maybe billions, three or four years ago, now being closed down because the work in terms of examining those wells and carrying out the kind of inspection that should have been carried out was never completed. These wells could not have deteriorated in three years like this.

Dr. Bob Richards, of Cottonwood, asked how much the appraisal fee was for Coe & Van Loo on this well, how much water Verde Village 6 and 7 actually used, and whether the purchase of these two wells was excessive for the water use of 6 and 7. Nor had he heard of any written assurance regarding UniSource and APS allowing us to use that easement to put in a water line. The document the public was provided with stated "because the wells do not

exceed the new arsenic standard, we'd be forced to install a transmission line in the easement". That seemed like a long distance to go for \$168,000.

Mr. Lueder stated the appraisal on the system, the RMCLV, was \$627,000. This well, because its output required no arsenic treatment, could pump directly into the system which would negate the necessity to have a reservoir. This system could help support other wells. The fire department didn't think any large supply was too much. We knew the arsenic concentrations in this well. When you take over a system you evaluate it based on the information that was available. The private water companies were not the most forthcoming with information. It was a cost-benefit analysis decision.

Council Member Kirby asked Chief Casson if this provided an adequate water supply for his needs as a fire department in Verde Village 6 and 7.

Chief Casson stated that was outside our service area. Typically, necessary minimal fire flow in a residential area was 500 gallons per minute (gpm) for two hours.

Mr. Lueder stated with wells 6-1 and 6-2, we could probably provide 300-350 gpm for about an hour.

Council Member Kirby stated that Mr. Oliphant had made a comment that we had to abandon wells 6-1 and 6-2 because of the arsenic content, but four or five years ago the arsenic content was within the limits.

Mr. Lueder stated it was within the old standard of 50 ppm. We knew when we bought the system both of these would require arsenic treatment. These wells were definitely not worth millions. They were probably worth in the tens of thousands. In the whole scheme of things, we paid \$5.5 million for all of the Verde Village, 15 wells, and we also bought all the infrastructure, booster stations, etc. He estimated the value of these wells was substantially under \$100,000 when we purchased them. At some point, you had to make business decisions on whether or not it was worth putting additional money into these wells or did we want to look for a new water source.

Council Member Kirby asked what it would cost to maintain 17 ppm on those wells.

Mr. Lueder stated we were doing that right now on well 6-2. The cost was about \$20,000 a month. With arsenic treatment the costs were not linear. It was not any cheaper to treat 17 ppm than it was to treat 34 ppm. There were large capital costs. Well 7-2 did not require arsenic treatment at the present time, but it was a very low production well.

Council Member Kirby asked if he would be able to function completely on the water from this well which was below the arsenic levels necessary to meet mandates.

Mr. Lueder stated it would basically mean, with the exception of a large flow or light feed from Unit 8, that Units 6 and 7 would have arsenic levels naturally below the new standard.

Mr. Al Gradijan, of Cottonwood, stated regarding Mr. Smith's concerns about environmental controls, a water line did not have the environmental impact a high pressure gas line did. There were only two wells. When he built this, he had to meet all the strict state standards and requirements, including fire flows. It was the same amount of fire hydrants as in the entire Verde Village. It was a quality system and was new. The reason they built two wells was so they could always meet those flow rates and exceed them. They were the best wells in the Verde Valley. Water should be a municipal function and not in the hands of private water companies.

Dr. Richards stated he had heard about the assurances from UniSource and APS to allow an easement, and if you decided to purchase this water source and they would not give you an easement, you were going to have to place the line elsewhere or be stuck with a water company that maybe was not much use to you. He asked how much the appraisal fee for Coe and Van Loo was when they appraised this particular well.

Mr. Lueder stated one of the things that was not being understood tonight was they were just asking for Council approval. They had professional engineers and surveyors review this easement. With thirty-five years of experience, he would not walk into a situation without knowing what was there. What they found out during their investigation was that there was a portion of Citizens Utilities (easement) that APS was using that was not on file properly. They took the extra step to go back to Mr. Gradijan and say they felt there was a prescriptive easement. We wanted a letter of assurance from the property owner that should we buy the system, he would grant any easement we needed. We knew we had done due diligence. As far as the cost of the appraisal, the entire thing was in the \$8,000 range, which was less than one percent of the purchase price. If the Council did not want to buy this system, the other option was to drill a well. Our advice was this was the better deal. If the Council felt more comfortable drilling another well, it could so choose. His purpose being here tonight was he needed a supply for Units 6 and 7 for next year. Whatever the Council wished he was prepared to perform.

Council Member Kirby stated we could solve the one problem at least by simply adding to the motion to approve the purchase and that the purchase would be contingent upon the provision of a recordable easement to well 6-2.

Mr. Horton stated what the motion was going to be was to authorize to move ahead and negotiate a sales agreement which would include contingencies like that and others.

Council Member Kirby stated he would like to see it in their motion somewhere in order to alleviate the fears of people in the audience.

Council Member Kirby moved to enter into the negotiation of a sales agreement for the purchase of the Quail Canyon Water System for a purchase price of \$850,000 contingent upon provision of a reasonable and recordable easement to well 6-2. Council Member Elinski seconded the motion, which carried with a dissenting vote by Council Member Smith.

ANNEXATION OF THE QUAIL CANYON DEVELOPMENT LOCATED OFF OF QUAIL SPRINGS RANCH ROAD

Mr. Bartosh stated he would have been reluctant to bring this forward to the Council unless it had seriously considered the purchase of the water system. Mr. Gradijan came to the City who believed a development like this really benefited from City services. After we looked at it, it made sense from the City's perspective too. The Council had been supplied with a spreadsheet of potential revenues: impact fees, permit fees, and state shared revenues. It was a reasonable approach to take from the standpoint that it did help us recover a substantial portion of the investment in the well by annexing these properties. Mr. Gradijan was right. The City did have the ability to provide service out in this development. He was the majority owner by far of most of the properties in the development. If the City chose to move forward with annexation, now was the appropriate time to do so because we were predominately dealing with one property owner, as opposed to 63. The thought was that it was probably always in the City's best interest that if we were serving an area with some type of a City service, utilities or otherwise, we should make an effort to get it annexed in the City.

Council Member Pratt stated it made a lot of sense. We were not spending money foolishly. We just arranged to secure water rights which was really important, and annexing this land was a no brainer since we could recoup part of the investment in the water company once this developed.

Council Member Elinski asked if this was in the Verde Valley Fire District's boundary at the present time, and Mr. Bartosh replied it was.

Mr. Bartosh stated what we were asking for tonight was just direction from the Council. We would certainly talk to them about it. The other important thing to remember was this was adjacent to the State Trust Land that was within the City's boundaries and that would eventually be developed. We already had discussions about having to put in a fire station down there to serve that southern part of the City in the not too distant future.

Council Member Elinski stated it was wise to annex it now.

Council Member Smith asked about sewer and if there would be septic tanks there.

Mr. Bartosh stated for the time being as we did not have the infrastructure out that far to support it. That would be the preference--to supply sewer, and eventually that would happen.

Council Member Smith asked if that wasn't one of the big issues that we talked about with annexation, particularly of State Trust Lands. We were going to put in sewer and everything while the County would just let these people put septic tanks in. So now we were annexing some place where nothing has been sold apparently in the last couple years.

Mr. Bartosh stated, to answer the first question, this was not really comparable to the State Trust Land annexation. The circumstances with the State Trust Land annexation were that

we were dealing with vacant land that had no development, but that we knew would develop over years and our infrastructure would be able to follow that development. Here, there was no plan for this to be annexed into the City. Mr. Gradijan was following what was available at the time.

Council Member Pratt stated the spreadsheet showed what the City would collect on sewer impact fees, so it wouldn't cost the city money.

Council Member Smith stated there would be septic tanks and we had to allow them because we had no infrastructure at this point.

Mr. Bartosh stated the plan would be that we would have. We would have to, just to support State Trust Land in that area.

Council Member Smith stated hopefully we could get the people to go on sewer. The estimate we had for sewer impact fees was really a pie in the sky. We would not collect that unless they agreed. He asked how long would it take for a fire engine company to get out there if there was an emergency call.

Chief Casson stated about ten or twelve minutes; very similar to what it would be for Verde Valley Fire District to respond out there right now.

Mr. Bartosh stated the fire response time would be no different from what it was now and the police service would actually improve.

Chief Fanning stated the police department already patrolled out there and past Ogden Ranch Road.

Council Member Smith asked when Mr. Gradijan anticipated building out.

Mr. Gradijan stated no one could predict that in the current environment. He had no gain one way or the other over annexation, though he was a strong supporter of city government. Today he could make the decision--not 63 homeowners. That was the difference.

Chief Casson stated as the area started to develop we would put a fire station out there. There would be an improved safety factor in that area being in the City from a fire protection point of view because it would have to meet the current fire codes. One of the strong things we had in our fire code was that all structures built in the City that were occupied as residences must be sprinklered. Those buildings would have sprinkler systems by being in the City. That, in itself, was a huge safety factor.

Mr. Gradijan stated the problem with septic tanks was the same problem as trying to put one gallon in a one pint jar. In Verde Village you got quarter acre lots and you get six kids in each household and you got all these septic tanks. Every lot in that subdivision was two acres.

Dr. Bob Richards, of Cottonwood, stated he saw no big hurry to annex this property. As Mr. Bartosh stated the state land out there might be developed as part of the City of Cottonwood 50 years down the road. As it developed, that might be the appropriate time. He assumed it had a homeowners' association and asked what the homeowners' association would be responsible for, such as the streets, etc. Also, if you were going to put in a sewer line, which he thought would be appropriate, even though you didn't have access now, you should put that into the plan that you will have sewer line out there as part of this evaluation, assuming that sewer line would go adjacent to the water line. If UniSource and APS didn't give access to that easement for both the water and sewer line, then you have to figure to use septic tanks or where else a sewer line might go. It was inappropriate to annex a piece of property within the City of Cottonwood and say septic tanks were okay.

Ms. Lisa Pender, of Cottonwood, stated she lived in Verde Village. It would be a great idea to annex this property and she wished the City could annex the Verde Villages. The response time from the police department, instead of an hour and a half, would be minutes. She knew it would take the same amount of time for the Verde Fire Department to respond to this particular property. If you waited, you would run into the same situation as the Verde Village properties.

Mr. Bob Oliphant, of Cottonwood, asked if the City annexed this property and the septic systems were allowed, did that mean you could no longer compel new building within normal limits of Cottonwood to hook up to the sewer system.

Vice Mayor Pfeifer stated when we wrote our sewer code if sewer was available it was compulsory to hook up, but if it was not available then you didn't have to hook up.

Council consensus was to proceed with the annexation. Council Member Smith opposed proceeding.

Vice Mayor Pfeifer directed staff to proceed with the annexation.

APPROVAL AND ACCEPTANCE OF A YAVAPAI COUNTY COMMUNITY FOUNDATION CHECK AWARD FOR THE 2009 CANINE IN LAW ENFORCEMENT GRANT

Ms. Jiménez stated the person that was going to make the presentation of the check had an emergency and was unable to be present tonight. Tonight we were looking for approval of the grant and the agreement. The presentation of the check would be done at a future time.

Council Member Smith moved to approve and accept the grant check from Yavapai County Community Foundation in the amount of \$2,060 for police canine veterinary expenses per the agreement and authorize Chief Fanning to sign the grant agreement. Council Member Norman seconded the motion, which carried unanimously.

Mr. Bartosh suggested moving up item number 6 (Old Town Jail) since there were people in the audience interested in that topic. There were no objections to do so.

APPROVAL OF A REQUEST FOR PROPOSAL FOR THE SUBLEASE AND DEVELOPMENT OF A FOR-PROFIT WINE TASTING ROOM ON CITY OWNED PROPERTY COMMONLY KNOWN AS THE "OLD TOWN JAIL"

Mr. Bartosh stated we had been looking at how to make better use of the Old Town Jail. It was not felt that it represented the City very well, an opinion also held by the Old Town Association (OTA). They were looking for an opportunity to make improvements on that property and make better use of it and try and draw traffic, pedestrian traffic in particular, into Old Town. One of the things being looked at with the Verde Valley Wine Consortium was setting up an information/tasting room at that location. They found that the cost of getting it up to standard was more than their budget could sustain. Certainly, the OTA did not have the funding to do that either. We were recently approached by one of the Verde Valley wineries interested in opening a wine tasting shop here in Old Town. The discussion came around to the possibility of using the Old Town Jail. They met with the OTA who was very supportive of this idea from the standpoint they were looking to make improvements to the facility, making it much more attractive, and trying to bring a lot more traffic into Old Town, particularly the northern part of it. We began looking at trying to make a sub-lease with one particular winery and thought we had better put it out as a Request for Proposal (RFP) to make sure that everybody who may have an interest had an equal opportunity to provide a proposal to do this. The idea would be some type of exchange in the cost of the lease for improvements to the facility. Council Member Elinski had actually done some estimates on this and we were looking at somewhere around \$30,000-\$40,000 to make the improvements to make it usable. We would probably have to make an adjustment on the lease over a three to five year period.

Council Member Pratt stated, again, in terms of economic development and cultural development this was a no brainer. Not that many people visited the Old Town Jail. This would be great for Old Town. The local wine industries were up and coming and starting to get a reputation. In fact, this coming Sunday, the Arizona Republic would have a big article in the "Arizona Living" section on the northern wineries. They had really committed to developing the wine industry. They were getting kudos for the quality of their wine and it just helped bring up Cottonwood again and helped cooperation with the wine consortium.

Council Member Smith stated he agreed with Council Member Pratt.

Ms. Lisa Pender, President of the Old Town Association, stated the OTA Board had looked at this because the Council had enjoined them to look at different ways to generate revenue. The Jail was going to cost \$30,000 or \$40,000 just for capital improvements. The OTA wanted to maintain the historic value of the building. That was very important. The rough groove structure, a new air conditioning system, windows, etc., were very important. This was how it was felt they could advance the wine industry, keep the Focus on Success element alive in the Old Town, build the Wine Trail, and promote economic development.

Council Member Elinski stated it was a great idea and he asked why the Council would need to give the OTA permission and why it would not be able to do this on its own.

Ms. Pender stated currently the sub-lease was with the Verde Valley Wine Consortium. Approval was needed to change that sub-let to a different company.

Mr. Bartosh stated once we had an agreement and a selection on a proposal, we would have a sub-lease agreement which could be brought to the Council for approval.

Council Member Elinski asked if we anticipated others putting out a proposal for this.

Ms. Pender stated she was not anticipating more than just the one, but they wanted to make that opportunity available.

Council Member Kirby stated he had a concern that we were leveling our view to one company when we have a number of wineries in the Verde Valley. He wondered whether or not we could have some kind of display that put the bottles up of all of the Verde Valley wineries somewhere in this building.

Ms. Pender stated one of the requirements was that we would have a kiosk that would be available for the Verde Valley Wine Consortium and for the OTA to display some of their information. Most of the wineries were part of the consortium.

Council Member Elinski stated that the City might be accused of subsidizing a private business, which is why he thought the OTA should handle it.

Council Member Pratt stated there was a RFP publicized. Those that wished could respond.

Council Member Pratt moved to approve distribution of the Request for Proposal for the sub-lease and development of a for-profit wine tasting room on the property commonly known as the Old Town Jail located in the section of Cottonwood known as Old Town Cottonwood. The motion was seconded by Council Member Kirby and carried unanimously.

RESOLUTION NUMBER 2482--DECLARING THAT CERTAIN DOCUMENT TITLED SECTION 407. LANDSCAPING REQUIREMENTS, PERTAINING TO THE COTTONWOOD ZONING ORDINANCE, A PUBLIC RECORD

Mr. Scully stated this item was related to the next one.

Council Member Kirby stated this item had already been discussed at length in work sessions and staff had been asked to bring it forward.

Council Member Kirby moved to approve Resolution Number 2482 which declared a new Section 407. Landscaping Requirements pertaining to the Cottonwood Zoning Ordinance a public record. Council Member Smith seconded the motion, which carried. Council Member Pratt was absent for the vote.

Vice Mayor Pfeifer asked the City Clerk to read Resolution Number 2482 by title only.

RESOLUTION NUMBER 2482

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, DECLARING THAT CERTAIN DOCUMENT TITLED SECTION 407. LANDSCAPING REQUIREMENTS, PERTAINING TO THE COTTONWOOD ZONING ORDINANCE, A PUBLIC RECORD.

ORDINANCE NUMBER 554--AMENDING SECTION 407. LANDSCAPE REQUIREMENTS, OF THE COTTONWOOD ZONING ORDINANCE; BY DELETING SECTION 407. LANDSCAPE REQUIREMENTS, IN ITS ENTIRETY AND REPLACING IT WITH A NEW SECTION 407. LANDSCAPE REQUIREMENTS; FIRST READING

Mr. Scully stated the ordinance was previously discussed at length and in great detail by the Council and the Planning and Zoning Commission. Draft copies had been sent to those on a list of interested parties including 30 developers, major property owners, architects, and engineers. We were looking to get as much input on this as we could. It completely replaced the existing ordinance. It had new procedures and administrative approaches. The main part of this ordinance addressed the methods required for landscaping large developments. There was emphasis throughout on the water conservation component, which had not really been directly addressed until now although it had been something that was strongly supported for years. The Cottonwood General Plan did include a policy statement promoting and encouraging development of a landscape ordinance.

The Council's consensus was to proceed with the plan, and the direction from Vice Mayor Pfeifer was to bring it back at the next meeting.

Vice Mayor Pfeifer asked the City Clerk to read the second reading of Ordinance Number 554 by title only.

ORDINANCE NUMBER 554

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE CITY OF COTTONWOOD ZONING ORDINANCE BY DELETING SECTION 407. LANDSCAPING REQUIREMENTS, IN ITS ENTIRETY; AND ADDING A NEW SECTION 407. LANDSCAPING REQUIREMENTS.

CLAIMS & ADJUSTMENTS

Council Member Elinski moved to pay the claims and adjustments. The motion was seconded by Council Member Norman, and carried unanimously.

Council Member Kirby moved to resolve into executive session. The motion was seconded

by Council Member Norman, and carried unanimously.

At this point in the meeting Council Member Pratt left the meeting.

A phone call was made to Mayor Joens in order for her to participate in the executive session discussion via teleconference.

EXECUTIVE SESSION--A.R.S. § 38-431.03.(A)(3)(4) DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY; DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSION CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION (POSSIBLE BOUNDARY AGREEMENT WITH THE TOWN OF CLARKDALE)

EXECUTIVE SESSION--A.R.S. § 38-431.03(A)(4)(7)--DISCUSSION OR CONSULTATIONS WITH DESIGNATED REPRESENTATIVES OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS REPRESENTATIVES REGARDING NEGOTIATIONS FOR THE PURCHASE, SALE, OR LEASE OF REAL PROPERTY; DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION (FOR THE PROPERTY KNOWN AS GARDNER'S RECYCLING, ASSESSOR PARCEL NUMBERS 406-36-023, 406-36-021B, 406-34-011 AND 406-34-010)

Following discussion under executive session, Council Member Kirby moved to resolve back into regular session. The motion was seconded by Council Member Smith, and carried.

ADJOURNMENT

Council Member Smith moved to adjourn. The motion was seconded by Council Member Norman, and carried. The regular meeting adjourned at 9:40 p.m.

Diane Joens, Mayor

Marianne Jiménez, City Clerk

CERTIFICATION OF MINUTES

I hereby certify that the attached is a true and correct copy of the minutes of a regular meeting of the City Council of the City of Cottonwood held on November 3, 2009. I further certify that the meeting was duly called, and that a quorum was present.

Marianne Jiménez, City Clerk

Date